

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PAR PHARMACEUTICAL, INC., PAR
STERILE PRODUCTS, LLC, and ENDO
PAR INNOVATION COMPANY, LLC,

Plaintiffs,

V.

EAGLE PHARMACEUTICALS INC.,

Defendant.

C.A. No. 18-823-CFC-JLH

STIPULATION OF DISMISSAL OF CLAIMS OF THE '526 PATENT

Plaintiffs Par Pharmaceutical, Inc., Par Sterile Products, LLC, and Endo Par Innovation Co., LLC (collectively, “Par”) and Defendant Eagle Pharmaceuticals Inc. (“Eagle”), by and through their respective counsel, hereby stipulate and agree as follows:

1. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, all claims, counterclaims and defenses asserted by the parties in this action relating to U.S. Patent No. 9,687,526 (the “526 patent”) shall be dismissed as follows:

a. Count IV of Par's Complaint (for infringement of the '526 patent) shall be dismissed with prejudice.

b. Eagle's Third Counterclaim (for noninfringement of the '526 patent), Fourth Counterclaim (for invalidity of the '526 patent) and Thirteenth Counterclaim (for unenforceability of the '526 patent) shall be dismissed without prejudice as moot.

2. Nothing in this Stipulation is intended to be or shall be deemed to be an admission as to any disputed fact between the parties relating to any of the remaining claims, counterclaims or defenses in this action, or to bar a party from seeking to prove any predicate facts in support

thereof. The parties do not waive and expressly reserve their respective rights with respect to the remaining claims and counterclaims asserted in this action (and any defenses thereto) and any present or future patents or patent applications not at issue in this action, including without limitation their respective contentions regarding the infringement/non-infringement, validity/invalidity, and enforceability/unenforceability of the remaining patents in suit and any claim for attorneys' fees.

3. This Stipulation also shall not affect the parties' ability to seek costs and attorney fees under 35 U.S.C. § 285 or otherwise based on any litigation conduct relating to the assertion of any claims or counterclaims relating the '526 patent.

4. For the avoidance of doubt, nothing herein prohibits or is intended to prohibit Eagle from maintaining a "Paragraph IV Certification" pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) with respect to the '526 patent.

Dated: June 21, 2021

Respectfully submitted,

FARNAN LLP

POTTER ANDERSON & CORROON LLP

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
919 N. Market St., 12th Floor
Wilmington, DE 19801
Telephone : (302) 777-0300
Fax : (302) 777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Attorneys for Plaintiffs

/s/ David E. Moore

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Stephanie E. O'Byrne (#4446)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
dmoore@potteranderson.com
bpalapura@potteranderson.com
sobyrne@potteranderson.com

Attorneys for Defendant

IT IS SO ORDERED, this ____ day of June, 2021.

The Honorable Colm F. Connolly